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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/688,189

10/17/2003

Angelo Ricotti

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06/21/2006

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC

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SEATTLE, WA 98104-7092

EXAMINER

NICOLAS, FREDERICK C

ART UNIT

PAPER NUMBER

3754

DATE MAILED: 06/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/688,189

Applicant(s)

RICOTTI, ANGELO

Examiner

Frederick C. Nicolas

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Allowable Subject Matter***

1. The indicated allowability of claim 1 is withdrawn in view of the newly discovered reference(s) to Taskis et al. 6,050,400. Rejections based on the newly cited reference(s) follow.

### ***Claim Objections***

2. Claim 1 is objected to because of the following informalities: claim 1, line 5, "cheese" should be –said cheese–. Appropriate correction is required.

### ***Drawings***

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the claimed subject matter in claim 4, line 2, "wherein the film comprises a multi-layer plastic material with at least a barrier layer" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for

consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Virk 5,967,434 in view of Taskis et al. 6,050,400.

Virk discloses a multi-purpose cheese container and dispenser (col. 1, ll. 5-7), which comprises a container (20) sized and shaped to hold at least one monolithic piece of cheese (70), a grater (50) rotatably coupled to the container to inviolably close the container and to selectively rotate with respect to the container to grate the cheese contained therein, a cover (60) intended to be sealingly fit, in a removable way, into a respective peripheral seat of a mouth of the container. Virk lacks that an external disposable casing for housing the container, trip coupling means between the grater and the container (col. 6, ll. 1-10), pushing means (30). Taskis et al. teach the use of a

container (1) having an external casing (6,8) defining a body of a rigid material and a film of plastic material (col. 3, ll. 51-67 onto col. 4, ll. 1-5).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the film of plastic material of Taskis et al. onto Virk's outer container as taught by Taskis et al. in (col. 3, ll. 51-67 onto col. 4, ll. 1-5), in order to protect the container contents of water vapour.

Applicant should note that Virk's cheese container would result/perform all the functional claimed language in as much as the applicants functional claimed invention.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Virk 5,967,434 in view of Taskis et al. 6,050,400 as applied to claim 3 above, and further in view of Takanashi 4,537,305.

Virk-Taskis et al. in combination have taught all the features of the claimed invention except that the film comprises a multi-layer plastic material with at least one barrier. Takanashi teaches the use of a film (9) having a multi-layer plastic material with at least one barrier (col. 3, ll. 14-26).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize Takanashi's teaching onto the film of Virk and Taskis et al., in order to provide a film capable of barriering passage of gases, as taught by Takanashi in (col. 2, ll. 27-40).

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Virk 5,967,434 in view of Taskis et al. 6,050,400 as applied to claim 3 above, and further in view of Menelaou 6,412,717.

Virk-Taskis et al. in combination have taught all the features of the claimed invention except that the pushing means comprises a threaded stem. Menelaou teaches the use of a cheese container (10) having a pushing means (17,18), where the pushing means comprises a threaded stem (col. 2, ll. 52-67 onto col. 3, ll. 1-7).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the pushing means of Virk and Taskis et al. with Menelaou's pushing means, in order to provide a reversible pushing means, which represents a substitution of well known, alternative equivalent as taught by Menelaou in (col. 3, ll. 3, ll. 62-66 onto col. 4, ll. 1-4), which is well known within the level of ordinary skill in the art.

### ***Response to Arguments***

8. Applicant's arguments filed 6/6/200 have been fully considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick C. Nicolas whose telephone number is (571)-272-4931. The examiner can normally be reached on Monday - Friday from 9:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver, can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3754

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FN  
June 14, 2006



6/14/06

Frederick C. Nicolas  
Primary Examiner  
Art Unit 3754